

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MARLA1NA EASTON,

Plaintiff,

v.

COLLEGE OF LAKE COUNTY,
Dr. Jean Kartje and Board of Trustees
of the College of Lake County,

Defendants.

Case No. 07 CV 6127
Judge John W. Darrah
Courtroom 1203
Magistrate Geraldine Soat Brown
Courtroom 1812

MOTION TO DISMISS COMPLAINT

Defendants, College of Lake County ("College"), Dr. Jean Kartje ("Dr. Kartje") and Board of Trustees of the College of Lake County ("Board"), by their attorneys, pursuant to Rule 12(b)(6), Fed. R. Civ. P., move this Court to dismiss the Complaint filed by Marlaina Easton ("Ms. Easton"), for failure to state a claim upon which relief may be granted. The Complaint purports to seek relief for discrimination based on race, national origin, disability, and retaliation under 42 U.S.C. 2000e, *et seq.* ("Title VII"), 42 U.S.C. 12001, *et seq.* ("ADA"), 42 U.S.C. 1981 ("Section 1981"), 42 U.S.C. 1983 ("Section 1983"), 775 ILCS 5/1-101, *et seq.* ("Illinois Human Rights Act") and the equal protection and due process clauses of the United States Constitution and the Illinois State Constitution.

Ms. Easton, who continues to be employed by the College as an English professor, has not and cannot state a due process claim under Section 1983 and the Fourteenth Amendment because even if her allegations are true, she was not deprived of a protected interest as a matter of law. Nor

can she state a retaliation claim under Section 1983 and the Fourteenth Amendment as a matter of law. To the extent she is deemed to allege an equal protection claim under Section 1983 and the Fourteenth Amendment, all matters arising prior to October 30, 2005 (two years before she filed her Complaint) are time barred.

Her claims under the Illinois Human Rights Act must be dismissed because this Court lacks jurisdiction over those claims.

Her Title VII and ADA claims against Dr. Kartje and the Board must be dismissed because she failed to name them in her Charge of Discrimination. The Title VII and ADA claims against Dr. Kartje fail for the additional reason that there is no individual liability under Title VII or the ADA and for the additional reason as to the Board because Ms. Easton does not allege that the Board was her employer. Additionally, to the extent Ms. Easton's claims against the College (or any of the Defendants) under Title VII and the ADA arise more than 300 days before filing her Charge of Discrimination, they are time barred.

Finally, she cannot state a claim for handicap discrimination under Section 1981 as a matter of law.

In support of their motion, Defendants submit the accompanying Memorandum in Support of Defendants' Motion to Dismiss.

s/Lynn U. Thorpe

Lynn U. Thorpe
35 East Wacker Drive
Suite 500
Chicago, IL 60601
Phone 312- 236-0475
Fax 312-236-1750
E-mail: lynn_thorpe@gshllp.com

CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following: N/A and I certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants:

Robert V. Gildo
Law Offices of Robert V. Gildo
120 North Hale
3rd Floor
Wheaton, IL 60187

s/Lynn U. Thorpe

Lynn U. Thorpe
35 East Wacker Drive
Suite 500
Chicago, IL 60601

Phone 312- 236-0475

Fax 312-236-1750

E-mail: lynn_thorpe@gshllp.com